

United States District Court
Eastern District of Oklahoma

SUMMONS IN A CIVIL CASE

BILLY KARR, BETTY SCOTT, GENE
HANDLEMAN, and ROWENA HANDELMAN,

Plaintiffs,

v.

ROBERT A. HEFNER, III, THE GHK
COMPANY, RAMIILAJ, INC., THE GHK
CORPORATION, GHK TRADING AND
INVESTMENT COMPANY, L.L.C., GHK
TRADING COMPANY L.L.C.,
GHK/POTATO HILLS LIMITED
PARTNERSHIP, THE GLEBE GROUP, INC.,
GLEBE ROYALTY, L.L.C., WYNNE
CROSBY ENERGY, KCS RESOURCES, INC.
and EL DORADO DOZERS, Inc.,

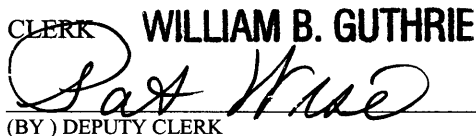
Defendants.

TO: Michael Leavitt
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20530

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY:

Jason B. Aamodt
Aamodt & Tobey
406 South Boulder
Suite 101
Tulsa, Oklahoma 74103

An answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK **WILLIAM B. GUTHRIE**

(BY) DEPUTY CLERK

3/15/05
DATE

RECEIVED

MAR 28 2005

**OFFICE OF THE
EXECUTIVE SECRETARIAT**

CASE NUMBER:
CIV05-117-WH

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (<i>PRINT</i>)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the third-party defendant. Place where served: _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
- ☐ Returned unexecuted: _____
- ☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED

MAR 15 2005

WILLIAM B. GUTHRIE
Clerk, U.S. District Court

By: _____
Deputy Clerk

BILLY KARR, BETTY SCOTT, GENE)
HANDLEMAN, and ROWENA HANDELMAN,)

Plaintiffs,)
)
)

v.)

Case No. _____

ROBERT A. HEFNER, III, THE GHK)
COMPANY, RAMIILAJ, INC., THE GHK)
CORPORATION, GHK TRADING AND)
INVESTMENT COMPANY, L.L.C., GHK)
TRADING COMPANY L.L.C.,)
GHK/POTATO HILLS LIMITED)
PARTNERSHIP, THE GLEBE GROUP, INC.,)
GLEBE ROYALTY, L.L.C., WYNNE)
CROSBY ENERGY, KCS RESOURCES, INC.)
and EL DORADO DOZERS, Inc.,)

Defendants.)
)

CIV05-117-WH

**JURY TRIAL
DEMANDED**

COMPLAINT

1. The Plaintiffs, Billy Karr, Betty Scott, Gene Handleman, and Rowena Handleman (the "Plaintiffs") for their claims for relief against Robert A. Hefner, III, The GHK Company, Ramiiilaj, Inc., The GHK Corporation, GHK Trading And Investment Company, L.L.C., GHK Trading Company L.L.C., GHK/Potato Hills Limited Partnership, The Glebe Group, Inc., Glebe Royalty, L.L.C., (the "GHK Defendants") Wynne Crosby Energy (herein "Wynne Crosby"), KCS Resources, Inc. (herein "KCS"), and El Dorado Dozers, Inc., (herein "El Dorado") (collectively the "Defendants") allege and state:

STATEMENT OF JURISDICTION

2. This complaint contains multiple claims relating to the Defendants' wrongful and illegal construction, reconstruction, operation and maintenance of numerous oil and gas locations throughout the Potato Hills in Latimer and Pushmataha Counties in Southeastern Oklahoma causing many sources of pollution to be created and to continue

to discharge pollutants. These sources of pollution include, *inter alia*, stormwater run-off that is currently and has been emanating into the streams, rivers and lakes of the Potato Hills in violation of various federal and state anti-pollution laws, the continued dredging and filling wetlands without a permit or performing any wetland mitigation, and illegal point sources that continue to discharge heavy metals and acids.

3. The Defendants have individually and collectively participated in building and/or operating those wells identified herein, causing pollution to the rivers and streams of Latimer and Pushmataha Counties. The Defendants have generated enormous profits from the extraction of natural gas from the Arkoma Basin as a direct result of this construction, unjustly earning huge sums and saving to themselves the cost of proper permitting and construction under federal and state laws even while violating state and federal anti pollution laws.

4. This Court has jurisdiction by reason of 28 U.S.C. §§ 1331, 1357 and 33 U.S.C. § 1365, section 505 of the Clean Water Act which states in relevant part that:

The District Courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 1319(d) of this title.

See 33 U.S.C. § 1365 (a). Common law causes of action are also brought against the defendants under the Court's supplemental jurisdiction because these causes of action arise out of the same case or controversy as the claims that the Defendants have violated the Clean Water Act. *See* 28 U.S.C. § 1367.

5. Sixty days prior notice has been provided to all Defendants under 33 U.S.C. § 1365 and to the required governmental entities by mailing to notices of intent to sue. The notices were mailed on November 15, 2004, and this complaint was filed on March 15,

2005, less than 120 days from the mailing of the notices of intent to sue. The notices were sent by certified mail to all persons listed herein as defendants, as well as to the Administrator of the Environmental Protection Agency, the Region Six Administrator of the Environmental Protection Agency, the Executive Director of the Oklahoma Department of Environmental Quality, the Oklahoma Secretary of the Environment, the Chairman of the Oklahoma Corporation Commission. A copy was mailed to the United States Attorney General. The notices contained, for each location and for each violation of the Clean Water Act, sufficient information to permit the recipient to identify the specific standard, limitation, or order alleged to have been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the location of the alleged violation, the date or dates of such violation, and the full name, address, and telephone number of the person giving notice. The notices complied with the requirements of 33 U.S.C. § 1365 and 40 C.F.R. §§ 135.1 through 3, and service of this complaint is made in compliance with 40 C.F.R. §§ 135.4. The Defendants were also provided a map of each of their locations and lease roads with their 33 U.S.C. § 1365 notice. The notices that were sent are attached as "Exhibit A."¹ The map sent is attached as "Exhibit B."

6. Plaintiffs are United States Citizens residing in Pushmataha and Latimer Counties in Oklahoma as follows:

7. Billy Karr is a resident of Pushmataha County, and owns land and water resources damaged by some of the Defendants illegal releases of pollutants as specifically set forth

¹ The notices were sent on a compact disk, and were scanned copies of the original letters attached to this Complaint. The cover letter indicated that paper copies could be obtained if needed, and only the EPA in Washington, DC requested copies. Paper copies were sent to the EPA upon its request.

herein. Mr. Karr's lands include a home, small business and a lake, largely situated downstream from the Karr 1-10 location, which has polluted his property.

8. Betty Scott is a resident of Pushmataha County, and owns land and water resources damaged by some of the Defendants illegal releases of pollutants as specifically set forth herein. Ms. Scott owns a farm, and within the farm owns a valuable hay meadow and streams that have been damaged and polluted by the Defendants' activities.

9. Gene Handleman is a resident of Latimer Counties and owns land and water resources damaged by some of the Defendants illegal releases of pollutants as specifically set forth herein.

10. Rowena Handleman is a resident of Latimer Counties and owns land and water resources damaged by some of the Defendants illegal releases of pollutants as specifically set forth herein. Together, the Handlemans own a large ranch, and streams and rivers, all of which have been largely devalued and damaged as a result of the Defendants' pollution and other activities as described herein.

11. The Defendants to this action are a mix of individuals and domestic and foreign corporations, as follows: Robert A. Hefner, III ("Hefner") is the general partner of GHK, and upon information and belief directly or indirectly the majority owner and controlling partner or director of The GHK Company, Ramiiilaj, Inc., The GHK Corporation, GHK Trading And Investment Company, L.L.C., GHK Trading Company L.L.C., GHK/Potato Hills Limited Partnership, The Glebe Group, Inc., and Glebe Royalty, L.L.C. (together and including Hefner, the "GHK Defendants"). Hefner resides at numerous locations in the United States and in England, including one at 952 Trentaz Drive, Aspen, Colorado 81661 in Pitkin County, Colorado.

12. Defendant, the GHK Company is an unincorporated business entity headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

13. Defendant, Ramiilaj, Inc is an incorporated business entity headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

14. Defendant, The GHK Corporation is an incorporated business entity headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

15. Defendant, GHK Trading And Investment Company, L.L.C., is limited liability company headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

16. Defendant, GHK Trading Company, L.L.C., is limited liability company headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

17. Defendant, GHK/Potato Hills Limited Partnership, is limited partnership headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

18. Defendant, The Glebe Group, Inc., is an incorporated business entity headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

19. Defendant, Glebe Royalty, L.L.C., is limited liability company headquartered at 6305 Waterford Boulevard, Oklahoma City, Oklahoma 73118, in Oklahoma County, Oklahoma.

20. Defendant, KCS Resources, Inc., ("KCS") is a foreign corporation headquartered at 5555 San Felipe, Suite 1200, Houston, Texas, 77056.

21. Defendant, Wynn Crosby Energy, Inc. ("Wynn Crosby") is an Oklahoma corporation believed to be headquartered at the intersection of Oklahoma HY 64 and HY 23 in Forgan, Oklahoma.

22. Defendant El Dorado Dozers, Inc. (El Dorado) is an Oklahoma corporation with headquarters located at 3500 South Highway 81 Service Road, El Reno, Oklahoma 73036, in Canadian County, Oklahoma.

COMMON ALLEGATIONS AND FACTUAL BACKGROUND

23. Paragraphs 1 through 22 are incorporated by reference.

24. The Potato Hills encompass a region of enormous natural resource wealth in Oklahoma. The Potato Hills are a rugged, mountainous area containing numerous springs and streams many of which are of the highest quality found in the State. The waters within the Potato Hills supply a great portion of the water flowing through the Kiamichi River and contained in Sardis Lake, waters of the United States, as well as numerous other rivers, streams and lakes in the area including without limitation the Buffalo River, Rock Creek, and Lake Naniwaia that are tributaries and contribute to the Kiamichi River and Sardis Lake.

25. These water resources are owned and/or used by the Plaintiffs and other persons for drinking water, fishing, swimming, and to support the abundant wildlife of the area, including wild turkey, deer, hawks, eagles, and numerous species of fish. These water resources and the wildlife they support are owned and/or utilized by the Plaintiffs recreationally, and for drinking and sustenance, as well as for business and personal purposes.

26. The Defendants have caused vast acreages of land to be cleared, and have caused enormous areas within the Potato Hills to be completely denuded, causing wetlands to be dredged and filled, toxic and heavy metals to be released, and sediments and overburden to be released into the waters of the United States and their tributaries. The Plaintiffs expected that the Defendants would comply, at least minimally with the Clean Water Act, and that such compliance would protect the Plaintiffs' interests in the resources described above. The Defendants have not complied with the federal or state anti-pollution laws, including the Clean Water Act, causing substantial damage to the Plaintiffs' interests.

27. The GHK Defendants are the current or past owners and operators of the following locations which are located at the following locations and their associated lease roads:

API WELL NUMBER	WELL NAME	WELL NO	LAT (N)	LONG (W)
7721086	BOHANON	1-32	34.41239	-95.41164
7721121	ROUND PRAIRIE	1-26	34.69970	-95.17170
12720030	MORGAN	1-5	34.67535	-95.22240
7721157	ALLEN	2-32	34.68426	-95.22350
12720029	EMRW	1-3	34.67689	-95.19570
12720033	WIGINGTON	1-1	34.67280	-95.25900
12720035	KOOPMAN	1-2	34.67197	-95.27560
12720032	GUGGENHIME	1-6	34.67677	-95.24400
7721155	HICKS	2-35	34.69068	-95.18130
12720036	LONDON	2-6	34.67285	-95.24590
7721190	JACK	3-35	34.69364	-95.16600
7721205	MARY RATCLIFF	2-33	34.68481	-95.20130
7720981	RATLIFF	1-33	34.41265	-95.12290
12720041	EDMONDS	1-12	34.65935	-95.25450
12720034	PETTIT	1-3	34.67134	-95.29100
12720042	KEYSE	1-9	34.66166	-95.20810
12720046	EDMONDS	2-12	34.65915	-95.25420
12720047	KARR	1-10	34.65936	-95.29150

12720052	SCOTT	1	SW SE NW NW of the 02N; 19E; SEC 14 PUSHMATAHA COUNTY, OKLAHOMA	
12720034	PETTIT	1-3	34.67134	-95.29100
12720037	FOUR STAR	1-7	34.65528	-95.24380
7721260	DON STEVENS	4-33	34.68876	-95.20680
7721122	TRIPLE TMS	1-25	34.69860	-95.15310
12720031	THOMPSON	1-4	34.67530	-95.21130
7721342	LAURA	1-30	34.78943	-95.23820
UNK	UNMARKED	UNK	34.40338	-95.12592
7721090	Minor	1-35	34.41316	-95.10520
UNK	UNMARKED	UNK	34.41660	-95.08680
17721920	MARY	2-34	34.41058	-95.11680
12720038	SINCLAIR	2-4	34.40543	-95.12271
UNK	UNMARKED	UNK	34.41084	-95.15471
7721125	GEORGIA	1-36	34.41465	-95.09446
UNK	OPEN SEISMIC HOLE	UNK	34.40268	-95.16981
7721230	TAMI	1-26	34.69898	-95.16610
UNK	UNMARKED	UNK	34.41927	-95.14857
UNK	UNMARKED	UNK	34.41560	-95.12118
	Rigg No. 182 (Unmarked)	UNK	34.41849	-95.12012

28. Wynn Crosby is the current owner and operator of record at a location named the "Tami No. 1-26" in Latimer County near the following coordinates: 34.69898 N and -95.16610 W.

29. KCS is the current owner and operator of the "Scott No. 1" well, located on Betty Scott's lands and now partially but incompletely abandoned in the SW SE NW NW of the 02N; 19E; SEC 14 PUSHMATAHA COUNTY, OKLAHOMA in Pushmataha County.

30. It is alleged upon information and belief that El Dorado conducts the construction activities at each and all of the locations and the associated lease roads identified herein.

COUNT I
VIOLATION OF THE CLEAN WATER ACT
CONSTRUCTION WITHOUT A STORMWATER PERMIT

31. Paragraphs 1 through 30 are incorporated by reference.

32. Stormwater is being discharged by the Defendants (to the extent they are either owners or operators) from the well locations identified in paragraphs 27 to 30, including their associated lease roads, without first complying with requirements of the Clean Water Act, including without limitation 33 U.S.C. §§ 1311 and 1342 and the regulations promulgated there under including without limitation 40 C.F.R. pt. 122 and 60 Fed. Reg. 17950 and 40230 (August 7, 1995).

33. The Defendants have and continue to violate the Clean Water Act by having caused construction to commence, continue, and be renewed at those well locations identified in paragraphs 27 to 30, including their associated lease roads without:

1. Filing a notice of intent with the Environmental Protection Agency or state or local environmental agencies to commence construction;

2. Obtaining coverage under a general, state or regional Clean Water Act permit for the discharge of stormwater;

3. Developing or complying with a Stormwater Pollution Prevention Plan (a "SWP3") for each location and associated lease roads, including but not limited to:

- (a) Identifying all operators for the project site, and the areas over which each operator has control;

- (b) Identifying the function of the project;

- (c) Identifying the intended sequence and timing of activities that disturb soils;

- (d) Estimating of the total area expected to be disturbed by excavation, grading, or other construction activities, including dedicated off-site borrow and fill areas;

- (e) Providing a general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with enough detail to identify the location of the construction site and waters of the United States within one mile;

(f) Providing a legible site map, showing the entire site, identifying:

1. Direction(s) of storm water flow and approximate slopes anticipated after major grading activities;
2. Areas of soil disturbance and areas that will not be disturbed;
3. Locations of major structural and nonstructural BMPs identified in the SWP3;
4. Locations where stabilization practices are expected to occur;
5. Locations of off-site material, waste, borrow or equipment storage areas;
6. Locations of all waters of the United States (including wetlands);
7. Locations where storm water discharges to a surface water; and
8. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

(g) Identifying all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges;

(h) Describing practices to be used to reduce pollutants in storm water discharges;

(i) Describing interim and permanent stabilization practices, including a schedule of when the practices will be implemented;

(j) Describing structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas;

(k) Describing all post-construction storm water management measures that will be installed during the construction process to control pollutants in storm water discharges after construction operations have been completed;

(l) Describing measures to prevent the discharge of solid materials, including building materials, to waters of the United States;

(m) Describing measures to minimize, to the extent practicable, off-site vehicle tracking of sediments onto paved surfaces and the generation of dust;

(n) Describing construction and waste materials expected to be stored on-site including describing controls, including storage practices, to minimize exposure of the materials to storm water, and spill prevention and response practices;

(o) Describing pollutant sources from areas other than construction

(p) Assuring compliance with the terms and conditions of any permit obtained, stabilizing and documenting the stabilization of the construction at the location;

(q) Maintaining records of dates when major grading activities occur, dates when construction activities temporarily or permanently cease on a portion of the site; and dates when stabilization measures are initiated.

4. Implementing any best management practices at each location and associated lease roads to curtail stormwater runoff including without limitation implementing good engineering practices, minimizing sediment escaping from the location, removing off site accumulations of sediment, implementing stabilization procedures within 14 days of the initiation of construction, and installing sediment retention basins or velocity dissipation devices;

5. Maintaining any controls for the management of stormwater to curtail stormwater runoff at each location and associated lease roads;

6. Documenting permit eligibility with regard to endangered species and the maintenance of critical habitat, including identifying whether federally-listed endangered or threatened species, or federally-designated critical habitat may be in the location of the well or the lease road; whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project; results of the listed species and critical habitat screening determinations; any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), EPA, the U.S. National Marine Fisheries Service (NMFS), or others regarding listed species and critical habitat; and a description of measures necessary to protect federally-listed endangered or threatened species, or federally-designated critical habitat.

7. Documenting permit eligibility with regard to total maximum daily loads from each location and associated lease roads;

8. Maintaining an updated SWP3 for at each location and associated lease roads, including signing, reviewing or making a SWP3 available for inspection by the public; and

9. Complying with the National Historic Preservation Act, section 106 consultation for federally permitted construction activities at each location and associated lease roads;

10. Documenting that the SWP3 for each location and associated lease roads is consistent with all applicable federal, state, tribal, or local requirements for soil and erosion control and storm water management; and

11. Complying with the Clean Water Act, 33 U.S.C. §§ 1251, et seq., and without limitation 40 C.F.R. pts. 122, 123, 124, 125, 129 and 131, including without limitation 40 C.F.R. § 122.26; 63 Fed. Reg. 36,490 and Permit No. OKR15000F at each well location and associated lease roads.

COUNT II
VIOLATION OF THE CLEAN WATER ACT
DISCHARGE OF POLLUTANTS, INCLUDING TOXIC POLLUTANTS
WITHOUT A PERMIT

34. Paragraphs 1 through 33 are incorporated by reference.

35. The Defendants, to the extent they are owners or operators for each of the following locations, are releasing and discharging pollutants in violation of the Clean Water Act, including without limitation 33 U.S.C. §§ 1311, 1317, and 1341, and the regulations and orders promulgated there under at the following locations:

API WELL NUMBER	WELL NAME	WELL NO	LAT (N)	LONG (W)
12720030	MORGAN	1-5	34.67535	-95.22240
12720032	GUGGENHIME	1-6	34.67677	-95.24400
12720036	LONDON	2-6	34.67285	-95.24590
12720047	KARR	1-10	34.65936	-95.29150
UNK	ADANDONED	UNK	34.41084	-95.15471
UNK	OPEN SEISMIC HOLE	UNK	34.40268	-95.16981
7721230	TAMI	1-26	34.69898	-95.16610

36. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 35 are discharging pollutants, including heavy metals, sand, rocks, and mud, from multiple point sources at the locations identified in Paragraph 35 without obtaining coverage under a specific permit for the discharge of these pollutants, or a general, state or regional Clean Water Act permit for the discharge of these pollutants.

37. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 35 are causing a continuous release of pollutants, including hazardous and toxic pollutants, to discharge from the locations identified in Paragraph 35 into the waters of the United States and the tributaries of the Waters of the United States, including the Kiamichi River and Sardis Lake, in violation of 33 U.S.C. §§

1311, 1317 and 1341, and other statutory and regulatory provisions of or under the Clean Water Act, including orders and regulations, without limitation 40 C.F.R. pts. 122, 123, 124, 125, 129 and 131; 40 C.F.R. §§ 122.28, 122.29; and/or any potentially applicable general permit.

38. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 35 are causing heavy metals to continuously or intermittently discharge from the locations identified in Paragraph 35 into the Waters of the United States and the tributaries of the Waters of the United States, including the Kiamichi River and Sardis Lake.

39. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 35 are causing the discharges identified in Paragraphs 36 through 38 without documenting permit eligibility with regard to endangered species and the maintenance of critical habitat, including identifying whether federally-listed endangered or threatened species, or federally-designated critical habitat may be in the location of the well or the lease road; whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project; results of the listed species and critical habitat screening determinations; with engaging in any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), EPA, the U.S. National Marine Fisheries Service

(NMFS), or others regarding listed species and critical habitat; and without describing the measures necessary to protect federally-listed endangered or threatened species, or federally-designated critical habitat at each location and associated lease road identified in Paragraph 35.

40. The Defendants, to the extent they are owners or operators for each of the
locations identified in Paragraph 35, are causing the discharges identified in Paragraphs 36 through 38 without documenting permit eligibility with regard to total maximum daily loads.

41. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 35, are causing the discharges identified in Paragraphs 36 through 38 without complying with the National Historic Preservation Act, section 106 consultation for federally permitted construction activities.

42. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 35 are causing the discharges identified in Paragraphs 36 through 38 without complying with the Effluent Limitations Guidelines and New Source Performance Standards for the Oil and Gas Extraction Point Sources found at 66 Fed. Reg. 6849, *et. seq.* or any other applicable state, tribal or federal standards;

**COUNT III
VIOLATION OF THE CLEAN WATER ACT
DREDGING AND FILLING WETLANDS WITHOUT A PERMIT**

43. Paragraphs 1 through 42 are incorporated by reference.

44. The Defendants to the extent they are owners or operators at each specific location or lease road identified in this paragraph have dredged and filled wetlands in violation of the Clean Water Act, including without limitation 33 U.S.C. §§ 1311 and

1344 and the regulations and orders promulgated there under, at each of the following locations and associated lease roads:

API WELL NUMBER	WELL NAME	WELL NO	LAT (N)	LONG (W)
7721121	ROUND PRAIRIE	1-26	34.69970	-95.17170
12720030	MORGAN	1-5	34.67535	-95.22240
12720032	GUGGENHIME	1-6	34.67677	-95.24400
7721155	HICKS	2-35	34.69068	-95.18130
12720036	LONDON	2-6	34.67285	-95.24590
12720041	EDMONDS	1-12	34.65935	-95.25450
12720042	KEYSE	1-9	34.66166	-95.20810
12720047	KARR	1-10	34.65936	-95.29150
7721260	DON STEVENS	4-33	34.68876	-95.20680
7721122	TRIPLE TMS	1-25	34.69860	-95.15310
12720031	THOMPSON	1-4	34.67530	-95.21130
UNK	UNMARKED	UNK	34.40338	-95.12592
UNK	UNMARKED	UNK	34.41660	-95.08680
UNK	UNMARKED	UNK	34.41084	-95.15471
7721125	GEORGIA	1-36	34.41465	-95.09446
7721230	TAMI	1-26	34.69898	-95.16610

45. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are causing construction to commence and continue without first obtaining a permit for the dredging and filling of a stream reach more than 500 feet in length at each location and associated lease road.

46. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44, are causing construction to commence and continue without taking steps to avoid wetland impacts at each location and associated lease road.

47. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are causing construction to commence and continue

without minimizing potential impacts to wetlands at each location and associated lease road.

48. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are causing construction to commence and continue without providing compensation for any remaining, unavoidable impacts through activities to restore or create wetlands at each location and associated lease road.

49. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are causing construction to commence and continue without documenting permit eligibility with regard to endangered species and the maintenance of critical habitat, including identifying whether federally-listed endangered or threatened species, or federally-designated critical habitat may be in the location of the well or the lease road; whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project; results of the listed species and critical habitat screening determinations; without engaging in any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), EPA, the U.S. National Marine Fisheries Service (NMFS), or others regarding listed species and critical habitat; and without creating a description of measures necessary to protect federally-listed endangered or threatened species, or federally-designated critical habitat.

50. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are causing construction to commence and continue without documenting permit eligibility with regard to total maximum daily loads from each location and associated lease road.

51. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are causing construction to commence and continue without complying with the National Historic Preservation Act, section 106 consultation for federally permitted construction activities at each location and associated lease road.

52. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are causing construction to commence and continue without documenting that the SWP3 is consistent with all applicable federal, state, tribal, or local requirements for soil and erosion control and storm water management

53. The Defendants, to the extent they are owners or operators for each of the locations identified in Paragraph 44 are dredging and filling wetlands (including stream reaches in excess of 500 feet) at each location and associated lease road in violation of numerous provisions of the Clean Water Act, including without limitation, 33 U.S.C. §§ 1311 and 1344 and the regulations and orders promulgated there under, without limitation 40 C.F.R. pts. 225, 227, 228, 229, 230, 231, 232, and 233.

COUNT IV NEGLIGENCE

54. Paragraphs 1 through 53 are incorporated by reference.

55. Plaintiff Karr alleges that the GHK Defendants and El Dorado have breached their duty to exercise reasonable care in the construction, operation and maintenance of the Karr 1-10 location causing damages to his property, lake, and business.

56. Plaintiff Scott alleges that KCS and El Dorado breached its duty to exercise reasonable care in the construction, operation, maintenance of that partly abandoned location known as the Scott No. 1 and which is located on her property, causing damages to her property and water.

57. Plaintiffs Gene and Rowena Handleman allege that the Defendants have breached their duty to exercise reasonable care in the construction, operation and maintenance of the wells located on their property, or adjacent to it, including without limitation, those locations identified as follows, causing damages to their property and water:

API WELL NUMBER	WELL NAME	WELL NO.	LAT (N)	LONG (W)
7721121	ROUND PRAIRIE	1-26	34.69970	-95.17170
7721122	TRIPLE TMS	1-25	34.69860	-95.15310
UNK	UNMARKED	UNK	34.41660	-95.08680
7721125	GEORGIA	1-36	34.41465	-95.09446
7721230	TAMI	1-26	34.69898	-95.16610

**COUNT V
NEGLIGENCE PER SE**

58. Paragraphs 1 through 57 are incorporated by reference.

59. The defendants have violated and continue to violate the Clean Water Act as alleged in Paragraphs 31 to 53, and have also violated numerous Oklahoma state laws and regulations at the sites identified in Paragraph 27.

60. Plaintiff Karr alleges as negligence per se that the GHK Defendants and El Dorado have violated and continue to violate the Clean Water Act as alleged in Paragraphs 31 to 53, and have also violated and continue to violate numerous Oklahoma state laws and regulations in the construction, operation and maintenance of the Karr 1-10 location causing damages to his property, lake, and business.

61. Plaintiff Scott alleges as negligence per se that KCS and El Dorado have violated and continue to violate the Clean Water Act as alleged in Paragraphs 31 to 53, and have also violated and continue to violate numerous Oklahoma state laws and regulations in

the construction, operation, maintenance of the Scott No. 1 well and which is located on her property, causing damage to her property and water.

62. Plaintiffs Gene and Rowena Handleman allege as negligence per se that the Defendants have violated and continue to violate the Clean Water Act as alleged in Paragraphs 31 to 53, and have also violated and continue to violate numerous Oklahoma

state laws and regulations in the construction, operation and maintenance of the wells located on their property, or adjacent to it, including without limitation, those locations identified in Paragraph 57.

COUNT VI TRESPASS

63. Paragraphs 1 through 62 are incorporated by reference.

64. The GHK Defendants and El Dorado committed and continue to commit a trespass to Plaintiff Karr's property by improperly disposing of drilling waste, failing to obtain permits required under the Clean Water Act, including permits to dredge and fill wetlands, to discharge stormwater incidental to construction, and by discharging pollutants, including toxic pollutants, diesel, mud and sediments onto his land and into his lake. The GHK Defendants' and El Dorado Dozer's actions have caused and continue to cause the pollution of Karr's lake constructed for recreational purposes and which is used as a part of his vacation rental business.

65. KCS committed and continue to commit a trespass to Plaintiff Scott's property by improperly closing the abandoned lease on her property, the improper disposal of drilling waste, and failing to obtain permits required under the Clean Water Act, including permits for storm water incidental to construction. KCS' actions have caused and

continue to cause the pollution of her property, including by damaging highly productive hay fields and associated streams.

66. Defendants, to the extent they are the owners or operators of the locations identified in Paragraph 57 committed and continue to commit a trespass to Plaintiffs Gene and Rowena Handleman's property by the improper closing of certain abandoned

leases on and adjacent to their property, the improper disposal of drilling waste, the failure to obtain permits required under the Clean Water Act – including permits to dredge and fill wetlands, for storm water incidental to construction, and to discharge pollutants, including toxic pollutants. These trespasses have caused and continue to cause the pollution to the Handleman's property, including highly productive agricultural fields and associated streams.

COUNT VII PRIVATE NUISANCE

67. Paragraphs 1 through 66 are incorporated by reference.

68. The GHK Defendants and El Dorado have subjected and continue to subject Plaintiff Karr to unreasonable inconvenience, interference, annoyance, and loss of use of his property, water and business caused by the willful, intentional dredging and filling of wetlands on his property, and the and illegal disposal of drilling wastes, diesel, stormwater runoff, and contaminated water and hazardous substances into the stream that provides water to his lake that is used for recreational and aesthetic purposes in his business.

69. The KCS and El Dorado have subjected and continue to subject Plaintiff Scott to unreasonable inconvenience, interference, annoyance, and loss of use of her property, water and business caused by the willful, intentional dredging and filling of wetlands on

her property, and the and illegal disposal of drilling wastes, stormwater runoff, and contaminated water and hazardous waste into the stream near the abandoned Scott location.

70. Defendants, to the extent they are the owners or operators of the locations identified in Paragraph 57, have subjected and continue to subject Plaintiffs Gene and

Rowena Handleman to unreasonable inconvenience, interference, annoyance, and loss of use of their property, water and farming business caused by the willful, intentional dredging and filling of wetlands on their property, and the and illegal disposal of drilling wastes, stormwater runoff, and contaminated water and hazardous waste into numerous streams on their ranch.

COUNT VIII PUBLIC NUISANCE

71. Paragraphs 1 through 70 are incorporated by reference.

72. Surface water, sediments, wetlands, land, vegetation and wildlife within and appurtenant to the Potato Hills, Sardis Lake, the Kiamichi River, Walnut Creek, Rock Creek, and other related waters are contaminated and continue to be contaminated by the Defendants' activities.

73. Defendants' contamination of these natural resources constitutes an unreasonable interference with the exercise of the Plaintiffs' and the public's common right to the use and enjoyment of these natural resources.

74. As long as the Defendants' continue to discharge pollutants without a permit or any limitation, Defendants' public nuisance continues.

**COUNT IX
UNJUST RICHMENT**

75. Paragraphs 1 through 74 are incorporated by reference.

76. Defendants' development of the locations and the associated lease roads identified herein have been and are being conducted with the sole purpose of maximizing profits and without regard to the law, the Plaintiffs' rights, or the environment.

77. The Defendants are obligated to comply at least with the minimal limitations of the Clean Water Act in their construction of locations and lease roads in Pushmataha County, and elsewhere in the United States.

78. The Defendants have not complied even with the minimal limitations of the Clean Water Act in their construction of locations and lease roads in Latimer and Pushmataha Counties as identified herein.

79. If the Defendants had complied even with the minimal limitations of the Clean Water Act in their construction of locations and lease roads in Latimer and Pushmataha Counties as identified herein it would have reduced the damages and injuries to the Plaintiffs.

80. The Defendants have intentionally sought to maximize profits while ignoring the Plaintiffs' rights, the law and the environment, and the limitations of the Clean Water Act as described herein.

81. It would be unconscionable to allow the Defendants to retain any of the goods, moneys or funds they have received from the operation of the wells identified herein, including all of the assets received by them from the extraction of natural gas, oil or associated products from these wells.

82. The Defendants must be disgorged of all the assets received by them from the operation of the wells identified herein, or at least the Defendants must be disgorged of the costs the Defendants have avoided by violating the law without regard to the Plaintiffs' rights.

COUNT X
DAMAGES TO LAND

83. Paragraphs 1 through 82 are incorporated by reference.

84. The GHK Defendants' and El Dorado's negligent and intentional acts have resulted and continue to result in the pollution and damage of Plaintiff Karr's property.

85. KCS' and El Dorado's negligent and intentional acts have resulted and continue to result in the pollution and damage of Betty Scott's property.

86. GHK Defendants', Wynne Crosby's and El Dorado's negligent and intentional acts have resulted and continue to result in the pollution and damage of Gene and Rowena Handlman's property.

COUNT XI
PUNITIVE DAMAGES

87. Paragraphs 1 through 86 are incorporated by reference.

88. The acts and omissions of the Defendants were willful, malicious, reckless and done in the wanton disregard to the Plaintiffs' rights, entitling the Plaintiffs to an award of punitive damages against the Defendants. Under 23 O.S. § 9.1, second tier punitive damages are appropriate.

COUNT XII
INJUNCTIVE RELIEF

89. Paragraphs 1 through 88 are incorporated by reference.

90. The pollution caused by the Defendants' creation, operation, maintenance of the locations identified herein constitute a continuing public and private nuisance, trespass, and a continuing violation of federal and state anti-pollution laws. The Plaintiffs request that this Court enjoin the Defendants from continuing to maintain a public nuisance, and ~~order the Defendants to remediate the locations identified herein such that they do not~~ continue to pollute. The Plaintiffs further ask the Court to order the Defendants to obtain and comply with federal permits as required under the Clean Water Act and state law, and any related regulations or orders so as to discontinue future illegal pollution of the Plaintiffs' lands and the common, public resources of the Potato Hills.

JURY DEMANDED

91. The Plaintiffs demand a trial by jury where available on all claims in this action to the fullest extent permitted by law.

RELIEF REQUESTED

Wherefore, Plaintiffs requests the following relief:

1. A judgment that the Defendants have and continue to violate the Clean Water Act by discharging pollutants from point sources without a permit at the locations identified in Paragraph 35, and without *inter alia*, first taking those actions identified in Paragraphs 36 to 42.
2. A judgment that the Defendants have and continue to violate the Clean Water Act by discharging stormwater at the locations identified in Paragraph 27 to 30 without, *inter alia*, first taking those actions identified in paragraph 33.
3. A judgment that the Defendants have and continue to violate the Clean Water Act by dredging and filling wetlands at the locations and associated lease roads identified in

Paragraph 44 without *inter alia*, first taking those actions identified in Paragraphs 45 to 53.

4. An Order from the Court enjoining the Defendants from continuing to operate the wells identified herein in violation of State and Federal laws.

5. An Order from the Court requiring the Defendants to remediate the locations including lease roads identified herein such that they will no longer discharge pollutants in violation of the provisions and requirements of the Clean Water Act.

6. An Order from the Court requiring the Defendants to comply with the limitations and requirements of the Clean Water Act including, *inter alia*, first taking those actions identified in Paragraphs 36 to 42 at the locations identified in Paragraph 35.

7. An Order from the Court requiring the Defendants to comply with the limitations and requirements of the Clean Water Act including, *inter alia*, first taking those actions identified in paragraph 33 at the locations identified in Paragraph 27.

8. An Order from the Court requiring the Defendants to comply with the limitations and requirements of the Clean Water Act including, *inter alia*, first taking those actions identified in Paragraphs 45 to 53 at the locations identified in Paragraph 44.

9. An Order from this Court imposing appropriate civil penalties under 33 U.S.C. § 1319(d).

10. A judgment for money damages caused by the Defendants' continuing negligence, negligence per se, public and private nuisance and trespass which have injured the Plaintiffs' property, diminished the value of the Plaintiffs' property, tainted their water and interfered with their businesses.

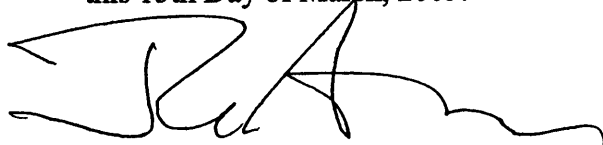
11. A judgment that it would be unconscionable to allow the Defendants to retain the financial benefits they have received by damaging the Plaintiffs and by violating federal and state anti-pollution laws, including the Clean Water Act.

12. A judgment that the Defendants have acted willfully, maliciously, recklessly and in wanton disregard to the Plaintiffs' rights and a judgment that Punitive Damages be assessed against the Defendants as a punishment for their evil acts.

13. An order from this Court directing the Defendants to pay the Plaintiffs attorney fees, expert witness fees, and costs under the Clean Water Act, 33 U.S.C. § 1365, the Equal Access to Justice Act, 28 U.S.C.A. § 2412, and 12 O.S. § 940.

14. On all of Plaintiffs' claims for relief, such other relief as this Court deems necessary and equitable.

RESPECTFULLY SUBMITTED
this 15th Day of March, 2005:



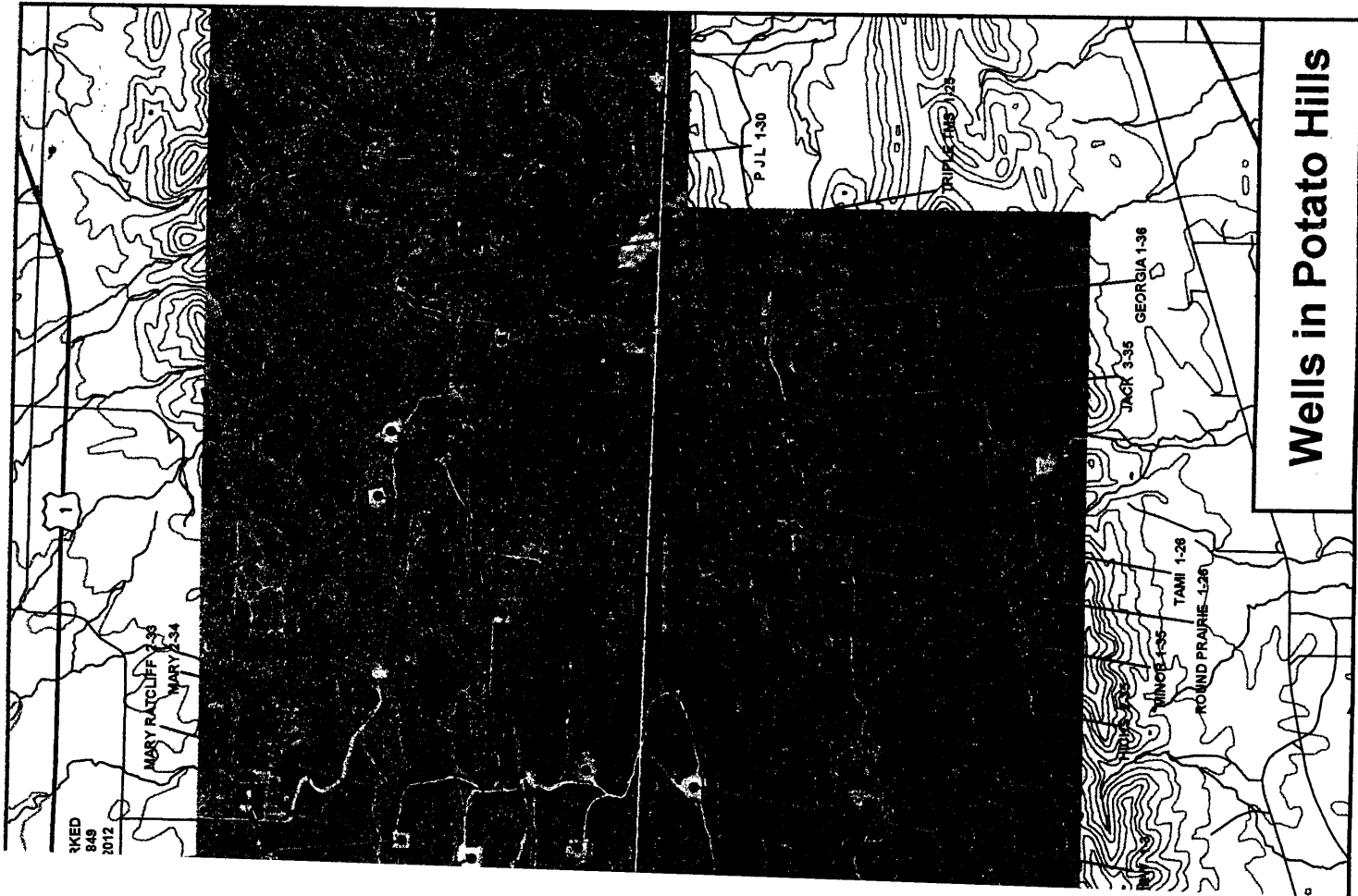
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ATTORNEYS FOR THE PLAINTIFFS

Attorneys for the Plaintiffs claim a lien on any and all monetary or non-monetary proceeds of any judgment, settlement or award in the Plaintiffs favor.

EXHIBIT

B



Wells in Potato Hills

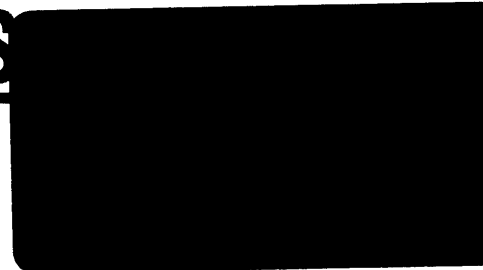
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RETURN RECEIPT REQUESTED

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